

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MELISSA POWELL,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-CV-01079

MENTOR WORLDWIDE LLC, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

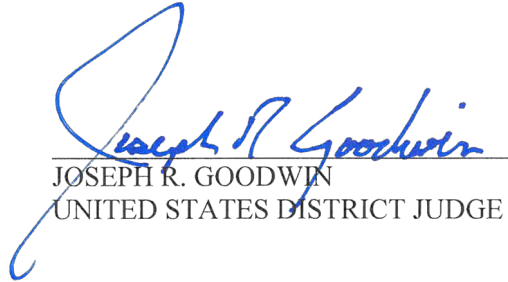
Pending is a Motion to Dismiss Pursuant to FRCP Rule 37, filed August 13, 2018. [ECF No. 25]. In the Motion, defendants, Coloplast Corp. and Mentor Worldwide, LLC, move to dismiss plaintiff's claims against them with prejudice for failure to serve and file a plaintiff fact sheet. Plaintiff has not responded.

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), the plaintiff's claims against these defendants should be dismissed without prejudice for failure to produce a completed plaintiff fact sheet in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that the Motion to Dismiss [ECF No. 25] is **GRANTED in part** to the extent defendants seeks dismissal and **DENIED insofar as defendants seeks dismissal with prejudice**. The court **ORDERS** that the defendants cited above are dismissal without prejudice. No additional defendants remain, and the Clerk is **DIRECTED** to dismiss and strike the case from the active docket.

The court further **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 15, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE